IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2704 OF 2007

Municipal Council vs. Gopalkrishna Pandharinath Bhandarkar

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
OCTOBER 30, 2007.

Heard Shri De, learned counsel for the petitioner – Municipal Council.

The challenge is to the order of Industrial Court dated 13.2.2007 by which the Industrial Court has directed the petitioner to give benefit of time bound promotion scale to respondent. Shri De, learned counsel argues that the next promotional post claimed by the petitioner is Senior Sanitary Inspector, which has already been abolished and as such there is no promotional avenue for the respondent. He further argues that there is no prayer in the complaint in the alternative, which has been granted by the Industrial Court.

The perusal of impugned order reveals that a person who has put in more than 12 years of service and stagnating, is

entitled to next promotional scale and accordingly the said benefit has been given to present respondent by the learned Member of Industrial Court. Though in complaint, there is no express prayer made to grant the relief of promotional scale, still there is a residuary prayer which claims from the Industrial Court "any other relief". The jurisdiction with the Industrial Court was welfare jurisdiction and while considering the prayers in the complaint, prayers will have to be interpreted fairly and widely. Accordingly, the Industrial Court has granted the benefit to the respondent. In the circumstances, I do not find anything wrong with the order impugned so as to warrant interference in the present writ petition.

At this stage, Shri De, learned counsel for the petitioner contended that it is not within the domain of Municipal Council to grant benefit to respondent – employee and therefore the Regional Director of Municipal Administration ought to have been joined as party respondent. However, I do not find it necessary because the Industrial Court has given the effect to the policy of the government itself and the benefit is being

given to the employees since long. In the circumstances, it is not necessary to implead the Regional Director of Municipal Administration as party respondent and if the said authority refuses to abide by the directions of Industrial Court, the petitioner is at liberty to make appropriate grievance at that stage.

In the circumstances, writ petition is dismissed. There shall be no order as to costs.

JUDGE

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